

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RENE CABRERA and RM CABRERA
COMPANY, INC., Individually and On Behalf of
All Others Similarly Situated,

Plaintiffs,

V.

GOOGLE LLC,

Defendant.

Case No. 5:11-cv-1263-EJD

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
SETTLEMENT AND AUTHORIZING
NOTICE OF SETTLEMENT**

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT AND AUTHORIZING NOTICE OF SETTLEMENT

Case No. 5:11-cv-1263-EJD

1 WHEREAS, the above-captioned class action is pending in this Court (“Action”);

2 WHEREAS, by Order dated August 15, 2023 (Dkt. 675), the Court certified the following
 3 two classes under Federal Rule of Civil Procedure 23: (i) the “Location Targeting Class” defined as
 4 all persons and entities located in the United States who, between January 1, 2004 and March 22,
 5 2011, advertised through Google’s AdWords Program and paid for clicks on their Google AdWords
 6 advertisement(s), where such clicks did not originate from the location selected by the advertiser;
 7 and (ii) the “Search Bundled Clicks Class” defined as all persons and entities located in the United
 8 States who, between June 1, 2009 and December 13, 2012, advertised through Google’s AdWords
 9 Program and paid for clicks on ads on Google’s Display Network where the advertiser’s settings
 10 allowed its ads to show on both the Search and Display Networks and did not set a Display Network
 11 bid different from the Search Network bid (together, the “Classes” or “Class”);¹

12 WHEREAS, pursuant to the Court’s Order dated August 16, 2024 (Dkt. 810), notice was
 13 disseminated to potential members of the Classes to notify them of, among other things: (i) the Action
 14 pending against Google; (ii) the Court’s certification of the Action to proceed as a class action on
 15 behalf of the Classes; and (iii) their right to request to be excluded from the Class(es), the effect of
 16 remaining in the Class(es) or requesting exclusion, and the requirements for requesting exclusion;

17 WHEREAS, (a) Rene Cabrera and RM Cabrera Company, Inc. (together, “Plaintiffs”), on
 18 behalf of themselves and the Court-certified Classes, and (b) Google (together with Plaintiffs, the
 19 “Parties”) have determined to settle all claims asserted against Google in the Action with prejudice
 20 on the terms and conditions set forth in the Parties’ Class Action Settlement and Release Agreement
 21 dated March 27, 2025 (“Settlement Agreement”), subject to the approval of this Court
 22 (“Settlement”);

23
 24
 25 ¹ Excluded from the Classes are Google LLC (“Google” or “Defendant”) and its affiliates,
 26 officers, and directors, as well as members of the judiciary, their staff and jurors in this case. Also
 27 excluded from the Classes are (i) the individuals and entities who requested exclusion from the Classes
 28 pursuant to Class Notice (as listed on Appendix 1 to the Settlement Agreement) and do not opt back
 into the Classes in connection with the Settlement; and (ii) the individuals and entities who submit
 timely and valid requests for exclusion from the Classes in connection with the Settlement.

1 WHEREAS, Plaintiffs have made a motion, pursuant to Rule 23(e)(1) of the Federal Rules of
 2 Civil Procedure, for an order preliminarily approving the Settlement in accordance with the Settlement
 3 Agreement and directing notice of the Settlement to members of the Classes as more fully described
 4 herein;

5 WHEREAS, the Parties have agreed to the entry of this order (“Preliminary Approval Order”
 6 or “Order”);

7 WHEREAS, the Court has read and considered: (a) Plaintiffs’ motion for preliminary approval
 8 of the Settlement and authorization to disseminate notice of the Settlement to the Classes, and the
 9 papers filed and arguments made in connection therewith; and (ii) the Settlement Agreement and the
 10 exhibits attached thereto; and

11 WHEREAS, unless otherwise defined in this Order, capitalized terms herein shall have the
 12 same meanings as they have in the Settlement Agreement;

13 NOW THEREFORE, IT IS HEREBY ORDERED:

14 1. **Preliminary Approval of the Settlement** – The Court hereby preliminarily approves
 15 the Settlement, as embodied in the Settlement Agreement, and finds, pursuant to Rule 23(e)(1)(B)(i)
 16 of the Federal Rules of Civil Procedure, that it will likely be able to finally approve the Settlement
 17 under Rule 23(e)(2) as being fair, reasonable, and adequate to the Classes, subject to further
 18 consideration at the Final Fairness Hearing to be conducted as described below.

19 2. **Final Fairness Hearing** – The Court will hold a hearing (“Final Fairness Hearing”)
 20 on August 21, 2025 at 9:00.m. at the San Jose Courthouse, 280 South 1st Street, San Jose,
 21 CA 95113, in Courtroom 4—5th Floor, for the following purposes: (a) to determine whether the
 22 proposed Settlement on the terms and conditions provided for in the Settlement Agreement is fair,
 23 reasonable, and adequate to the Classes, and should be finally approved by the Court; (b) to determine
 24 whether a Final Approval Order substantially in the form attached as Exhibit B to the Settlement
 25 Agreement should be entered dismissing the Action with prejudice against Defendant; (c) to
 26 determine whether the proposed Allocation Methodology for the proceeds of the Net Settlement
 27 Fund is fair and reasonable and should be approved; (d) to determine whether the motion by Class
 28 Counsel for attorneys’ fees and Litigation Expenses should be approved; (e) to determine whether

1 the requested Service Award to Plaintiffs should be approved; and (f) to consider any other matters
 2 that may properly be brought before the Court in connection with the Settlement. Notice of the
 3 Settlement and the Final Fairness Hearing shall be given to the Classes as set forth in paragraph 5 of
 4 this Order.

5 3. The Court may adjourn the Final Fairness Hearing without further notice to the
 6 Classes and may approve the proposed Settlement with such modifications as the Parties may agree
 7 to, if appropriate, without further notice to the Classes. The Court may decide to hold the Final
 8 Fairness Hearing by telephone or video conference without further mailed notice to the Classes. If
 9 the Court orders that the Final Fairness Hearing be conducted telephonically or by video conference,
 10 that decision will be posted on the Settlement Website, www.AdWordsClicksClassAction.com, as
 11 referenced in paragraph 5(c) of this Order. Any member of the Classes (or his, her, or its counsel)
 12 who wishes to appear at the Final Fairness Hearing should consult the Court's docket and/or the
 13 Settlement Website for any change in date, time, or format of the hearing.

14 4. **Retention of Settlement Administrator and Manner of Giving Notice** – Class
 15 Counsel are hereby authorized to retain Angeion Group, LLC (“Settlement Administrator”), the
 16 administrator previously approved by the Court to administer the dissemination of Class Notice, to
 17 supervise and administer the notice procedure in connection with the Settlement as well as to issue
 18 Settlement Payments to Participating Class Members as more fully set forth below. Absent further
 19 order of the Court, the Settlement Administrator shall have such duties and responsibilities as are set
 20 forth herein and in the Settlement Agreement.

21 5. Notice of the Settlement and the Final Fairness Hearing shall be provided as follows:
 22 (a) not later than twenty (20) days following entry of this Order (“Notice Date”), the
 23 Settlement Administrator shall cause the Email Notices, substantially in the forms
 24 attached hereto as Exhibit 1, to be emailed (or to the extent there is a mailing address,
 25 sent by first-class mail) to the potential members of the Classes who were previously
 26 emailed notice in the Class Notice campaign;
 27 (b) contemporaneously with the dissemination of the Email Notices, the Settlement
 28 Administrator shall cause a downloadable copy of the Settlement Notice and the
 Payment Form, as well as other Settlement-related information, to be posted on the
 Settlement Website, www.AdWordsClicksClassAction.com. In addition, the
 Settlement Administrator will mail a copy of the Settlement Notice and Payment
 Form to any person who makes such a request;

- (c) not later than ten (10) days after the Notice Date, the Settlement Administrator shall cause the Settlement Notice Ads, substantially in the forms attached hereto as Exhibit 3, to be transmitted over various media platforms for a duration of no less than thirty (30) days; and
- (d) prior to the Final Fairness Hearing, Class Counsel shall serve on Defendant's Counsel and file with the Court proof, by affidavit or declaration, of such emailing, posting and transmittal.

6. **Approval of Form and Content of Notice** – The Court (a) approves, as to form and content, the Email Notices, Settlement Notice, Settlement Notice Ads, and Payment Form attached hereto as Exhibits 1, 2, 3 and 4, respectively, and (b) finds that the distribution of the Email Notices, the posting of the Settlement Notice and Payment Form on the Settlement Website, and the transmittal of the Settlement Notice Ads in the manner and forms set forth in paragraph 5 of this Order (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise members of the Classes of the effect of the Settlement (including the releases to be provided thereunder), of Class Counsel’s motion for attorneys’ fees and Litigation Expenses, of their right to object to the Settlement, the Allocation Methodology, and/or Class Counsel’s motion for attorneys’ fees and Litigation Expenses, of their right to exclude themselves from the Class(es), of their right to opt back into the Class(es) if they previously requested exclusion from the Class(es) pursuant to Class Notice, and of their right to appear at the Final Fairness Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the Settlement; and (iv) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The date and time of the Final Fairness Hearing shall be included in the Email Notices and Settlement Notice before they are emailed and posted, respectively.

7. **CAFA Notice** – As provided in the Settlement Agreement, the Settlement Administrator, on Google’s behalf and with Google’s approval, shall serve the notice required under the Class Action Fairness Act, 28 U.S.C. § 1715 *et seq.* (“CAFA”) no later than ten (10) days following the filing of the Settlement Agreement with the Court. Prior to the Final Fairness Hearing, Defendant shall provide proof of service of such notice with the Court.

1 8. **Participation in the Settlement** – Participating Class Members (i.e., Class Members
 2 who are eligible to receive a payment under the Settlement based on an assessment by Plaintiffs’
 3 experts of data produced by Google in this Action, submit a completed Payment Form, and are not
 4 Opt Outs) will be issued a Settlement Payment by the Settlement Administrator in accordance with
 5 the Allocation Methodology set forth in the Settlement Notice, or other allocation method ultimately
 6 approved by the Court. Participating Class Members will be required to complete the Payment Form
 7 in order to receive a Settlement Payment. Payment Forms are to be completed no later than seventy-
 8 five (75) days after the Notice Date, unless the Court orders otherwise. Notwithstanding the
 9 foregoing, Class Counsel may, at their discretion, accept late Payment Forms provided such
 10 acceptance does not delay the distribution of the Net Settlement Fund to Participating Class
 11 Members.

12 9. Any Participating Class Member that does not negotiate their Settlement Payment
 13 within the time permitted: (a) shall be deemed to have waived his, her, or its right to share in the Net
 14 Settlement Fund; (b) shall be forever barred from participating in any distributions therefrom; and
 15 (c) shall be bound by the provisions of the Settlement and all proceedings, determinations, orders,
 16 and judgments in the Action relating thereto, including, without limitation, the Final Approval Order
 17 and the releases provided for therein, whether favorable or unfavorable to the Participating Class
 18 Member. All Class Members will be barred from commencing, maintaining, or prosecuting any of
 19 the Released Plaintiffs’ Claims against each and all of the Releasees, as more fully described in the
 20 Settlement Agreement and Settlement Notice.

21 10. **Exclusion From the Classes** – Any member of the Class who wishes to exclude
 22 himself, herself, or itself from the Class(es) must request exclusion in writing (or online) within the
 23 time and in the manner set forth in the Settlement Notice, which shall provide that: (a) any such
 24 request for exclusion from the Class(es) must be mailed/mailed or submitted online such that it is
 25 received no later than seventy-five (75) days after the Notice Date, to: *AdWords Clicks Class Action*,
 26 ATTN: Exclusion Requests, P.O. Box 58220 Philadelphia, PA 19102 or
 27 info@AdWordsClicksClassAction.com, or via www.AdwordsClicksClassAction.com, and (b) each
 28 request for exclusion must (i) state the full name, address, telephone number, and email address

1 associated with the person or entity requesting exclusion, and in the case of entities, the name and
 2 telephone number of the appropriate contact person; (ii) clearly identify the case name and number,
 3 *Rene Cabrera, et al. v. Google LLC*, No. 11-cv-1263-EJD (N.D. Cal.); (iii) indicate the person's or
 4 entity's intent to request exclusion from the Class(es); (iv) state whether the person or entity
 5 requesting exclusion is requesting exclusion from the Location Targeting Class, the Search Bundled
 6 Clicks Class, or both Classes; and (v) include the physical or electronic signature of the person or
 7 entity requesting exclusion or an authorized representative. A request for exclusion shall not be
 8 effective unless it provides all the required information and is received within the time stated above,
 9 or is otherwise accepted by the Court. Copies of all requests for exclusion from the Class(es) received
 10 by the Settlement Administrator shall be provided to Class Counsel and Defendant's Counsel on a
 11 rolling basis and no later than five (5) days after the deadline to request exclusion.

12 11. Any person or entity who or that timely and validly requests exclusion from the
 13 Class(es) in compliance with the terms stated in this Order and is excluded from the Class(es) shall
 14 not be a Class Member, shall not be bound by the terms of the Settlement or any orders or judgments
 15 in the Action, and shall not receive a Settlement Payment.

16 12. Any Class Member who or that does not timely and validly request exclusion from
 17 the Class(es) in the manner stated in this Order or did not previously request exclusion from the
 18 Class(es) pursuant to Class Notice (as listed in Appendix 1 to the Settlement Agreement): (a) shall
 19 be deemed to have waived his, her, or its right to be excluded from the Class(es); (b) shall be forever
 20 barred from requesting exclusion from the Class(es) in this or any other proceeding; (c) shall be
 21 bound by the provisions of the Settlement and all proceedings, determinations, orders, and judgments
 22 in the Action, including, but not limited to, the Final Approval Order and the releases provided for
 23 therein, whether favorable or unfavorable to the Class(es); and (d) will be barred from commencing,
 24 maintaining, or prosecuting any of the Released Plaintiffs' Claims against any of the Releasees, as
 25 more fully described in the Settlement Agreement and Settlement Notice.

26 13. **Opting Back Into the Class(es)** - Any person or entity that previously submitted a
 27 request for exclusion pursuant to Class Notice as set forth in Appendix 1 to the Settlement
 28 Agreement, may elect to opt back into the Class(es) and be eligible to receive a Settlement Payment.

1 Any person or entity set forth on Appendix 1 to the Settlement Agreement who wishes to opt back
 2 into the Class(es) must submit a written request to opt back into the Class(es) to the Settlement
 3 Administrator by mail at: *AdWords Clicks Class Action*, ATTN: Exclusion Requests, P.O. Box 58220
 4 Philadelphia, PA 19102, or my email at: info@AdWordsClicksClassAction.com such that it is
 5 received no later than seventy-five (75) days **after the Notice Date**. A request to opt back into the
 6 Class(es) must: (i) state the full name, address, telephone number, and email address of the person
 7 or entity requesting to opt back into the Class(es), and in the case of entities, the name and telephone
 8 number of the appropriate contact person; (ii) state that such person or entity “requests to opt back
 9 into the Class(es) in *Rene Cabrera, et al. v. Google LLC*, No. 11-cv-1263-EDJ (N.D. Cal.”); and
 10 (iii) be signed by the person or entity requesting to opt back into the Class(es) or an authorized
 11 representative.

12 14. Any person or entity that previously submitted a request for exclusion from the
 13 Class(es) pursuant to Class Notice and does not opt back into the Class(es) in accordance with the
 14 requirements set forth in this Order and the Settlement Notice, remains excluded from the Class(es)
 15 and shall not be a Class Member, shall not be bound by the terms of the Settlement Agreement, or
 16 of any other orders or judgments in the Action, and shall have no right to receive a Settlement
 17 Payment.

18 15. **Appearance and Objections at Final Fairness Hearing** – Any Class Member who
 19 or that does not request exclusion from the Class(es) may appear at the Final Fairness Hearing at his,
 20 her, or its own expense, individually or through counsel of his, her, or its own choice, by sending a
 21 letter to the Court, at the address set forth in paragraph 16 below, stating his, her, or its intent to
 22 appear at the Final Fairness Hearing, such that the letter is filed or postmarked no later than seventy-
 23 five (75) days after the Notice Date, or as the Court may otherwise direct. If a Class Member intends
 24 to have counsel appear on his, her, or its behalf at the Final Fairness Hearing, the letter must identify
 25 all attorneys who will appear on the Class Member’s behalf and the attorneys must send a notice of
 26 their intent to appear. Otherwise, Class Members will be represented by Class Counsel.

27 16. Any Class Member who or that does not request exclusion from the Class(es) may
 28 file a written objection to the proposed Settlement, the proposed Allocation Methodology, and/or

1 Class Counsel's motion for attorneys' fees and Litigation Expenses and appear and show cause, if
 2 he, she, they, or it has any cause, why the proposed Settlement, the proposed Allocation
 3 Methodology, and/or Class Counsel's motion for attorneys' fees and Litigation Expenses should not
 4 be approved; *provided, however*, that no Class Member shall be heard or entitled to contest the
 5 approval of the terms and conditions of the proposed Settlement, the proposed Allocation
 6 Methodology, and/or the motion for attorneys' fees and Litigation Expenses unless that individual
 7 or entity has filed a written objection with the Court. All written objections and supporting papers
 8 must: (i) clearly identify the case name and number (*Rene Cabrera, et al. v. Google LLC*, No. 11-cv-
 9 1263-EJD (N.D. Cal.)); (ii) be submitted to the Court either by filing them electronically or in person
 10 at any location of the United States District Court for the Northern District of California, or by
 11 mailing them to the Clerk of the Court at the United States District Court for the Northern District of
 12 California, San Jose Courthouse, 280 South 1st Street, San Jose, CA 95113; and (iii) be filed or
 13 postmarked no later than seventy-five (75) days after the Notice Date.

14 17. Any objections, filings, and other submissions by the objecting Class Member also
 15 must: (i) identify the full name, address, telephone number, Settlement Notice ID (if available),
 16 Customer ID, and email address associated with the Google AdWords account of the person or entity
 17 objecting and must be signed by the objector; (ii) include the full name, address, telephone number,
 18 and email address of the Objector's counsel (if the Objector is represented by counsel); and (iii) state
 19 with specificity the grounds for the Class Member's objection, including any legal and evidentiary
 20 support the Class Member wishes to bring to the Court's attention and whether the objection applies
 21 only to the objector, to a specific Class, or to a specific subset of either Class. Objectors who intend
 22 to appear and desire to present evidence at the Final Fairness Hearing in support of their objection
 23 must include in their written objection the identity of any witnesses they may call to testify and any
 24 exhibits they intend to introduce into evidence at the hearing.

25 18. Any Class Member who or that does not make his, her, or its objection in the manner
 26 provided herein may be deemed to have waived his, her, or its right to object to any aspect of the
 27 proposed Settlement, the proposed Allocation Methodology, and Class Counsel's motion for
 28 attorneys' fees and Litigation Expenses and shall be forever barred and foreclosed from objecting to

1 the fairness, reasonableness, or adequacy of the Settlement, the Allocation Methodology, or the
 2 requested attorneys' fees and Litigation Expenses, or from otherwise being heard concerning the
 3 Settlement, the Allocation Methodology, or the requested attorneys' fees and Litigation Expenses in
 4 this or any other proceeding.

5 19. **Stay and Temporary Injunction** – Until otherwise ordered by the Court, the Court
 6 stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms
 7 and conditions of the Settlement Agreement. Pending final determination of whether the Settlement
 8 should be approved, the Court bars and enjoins Plaintiffs and all other members of the Classes from
 9 prosecuting any of the Released Plaintiffs' Claims against any of the Releasees.

10 20. **Settlement Administration Fees and Expenses** – All reasonable costs incurred in
 11 notifying the Classes of the Settlement as well as in administering the Settlement shall be paid as set
 12 forth in the Settlement Agreement.

13 21. **Settlement Fund** – The contents of the Settlement Fund held by The Huntington
 14 National Bank (which the Court approves as the Escrow Agent) shall be deemed and considered to
 15 be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such
 16 time as they shall be distributed pursuant to the Settlement Agreement/Allocation Methodology
 17 and/or further order(s) of the Court. Absent further order of the Court, the Escrow Agent shall have
 18 such duties and responsibilities in such capacity as are set forth herein and in the Settlement
 19 Agreement.

20 22. **Taxes** – Class Counsel are authorized and directed to prepare any tax returns and any
 21 other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund
 22 any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with
 23 respect to Taxes and any reporting or filings in respect thereof without further order of the Court in
 24 a manner consistent with the provisions of the Settlement Agreement.

25 23. **Termination of Settlement** – If the Settlement is terminated as provided in the
 26 Settlement Agreement, the Settlement is not approved, or the Effective Date of the Settlement
 27 otherwise fails to occur, this Order shall be vacated, rendered null and void, and be of no further
 28 force and effect, except as otherwise provided by the Settlement Agreement, and this Order shall be

1 without prejudice to the rights of Plaintiffs, the other members of the Classes, and Defendant, and
 2 the Parties shall be restored to their respective positions immediately preceding execution of the
 3 Settlement Agreement, and any intervening Court rulings or decisions shall be vacated, as provided
 4 in the Settlement Agreement.

5 24. **Use of this Order** – The Settlement Agreement, the Settlement, all documents,
 6 orders, and other evidence relating to the Settlement, the fact of their existence, any of their terms,
 7 any press release or other statement or report by the Parties or by others concerning the Settlement
 8 Agreement, the Settlement, their existence, or their terms, any negotiations, proceedings, acts
 9 performed, or documents drafted or executed pursuant to or in furtherance of the Settlement
 10 Agreement or the Settlement shall not be offered or received as evidence, nor shall they be deemed
 11 to be, used as, construed as, or constitute a presumption, concession, admission, or evidence of (a)
 12 the validity of any Released Claims or of any liability, culpability, negligence, or wrongdoing on the
 13 part of the Releasees; (b) any fact alleged, any defense asserted or any fault by the Releasees; (c) the
 14 propriety of certifying a litigation class or any decision by any court regarding the certification of a
 15 class; and/or (d) whether the consideration to be given in the Settlement Agreement represents the
 16 relief that could or would have been obtained through trial in the Action in any trial, civil, criminal,
 17 administrative, or other proceeding of the Action or any other action or proceeding in any court,
 18 administrative agency, or other tribunal. Defendant and the other Releasees shall have the right to
 19 file the Settlement Agreement and/or the Final Approval Order in any action that may be brought
 20 against them in order to support a defense or counterclaim based on principles of res judicata,
 21 collateral estoppel, release, good-faith settlement, judgment bar, reduction, or any other theory of
 22 claim preclusion or issue preclusion or similar defense or counterclaim.

23 25. **Supporting Papers** – Class Counsel, in consultation with Google, shall file and serve
 24 their opening papers in support of the proposed Settlement, the proposed Allocation Methodology,
 25 and Class Counsel’s motion for attorneys’ fees and Litigation Expenses no later than sixty (60) after
 26 the Court’s entry of this Order; and reply papers, if any, shall be filed and served no later than fifteen
 27 (15) days prior to the Final Fairness Hearing. **The parties shall modify Settlement Agreement § 7.3 to**
 28 **comport with this paragraph.**

1 **IT IS SO ORDERED.**
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Dated: April 16, 2025



HON. EDWARD J. DAVILA
United States District Judge